

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

PAUL WINFIELD,

Defendant.  
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ORDER

01-cr-9-bbc

In an order entered on September 23, 2008, I denied defendant Paul Winfield's motion pursuant to 18 U.S.C. § 3582 and Amendment 706 to the Sentencing Guidelines (dkt. #397). Now defendant has filed a notice of appeal. He has not paid the \$455 fee for filing his notice of appeal which is required if he is to take an appeal from the denial of a § 3582 motion. Therefore, I construe defendant's notice as including a request for leave to proceed in forma pauperis on appeal pursuant to 28 U.S.C. § 1915.

According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-appointed counsel in the district court proceedings may proceed on appeal in forma pauperis without further authorization "unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed."

Copy of this document has been  
provided to: Defendant

this 22<sup>nd</sup> day of Oct, 2008

by S. Vogel

S. Vogel, Secretary to  
Judge Barbara B. Crabb

Defendant had court-appointed counsel. Therefore, he can proceed in forma pauperis on appeal unless I find that his appeal is taken in bad faith. In this case a reasonable person could not suppose that the appeal has some merit, as is required in order for the appeal to be taken in good faith. As I explained in the September 23, 2008 order, defendant is not eligible for a sentence reduction under § 3582. Therefore, I will deny defendant's request to proceed in forma pauperis on appeal.

Pursuant to Fed. R. App. P. 24, defendant has 30 days from the date of this order in which to ask the court of appeals to review this court's denial of leave to proceed in forma pauperis on appeal. His motion must be accompanied by an affidavit as described in the first paragraph of Fed. R. App. P. 24(a) and a copy of this order.

#### ORDER

IT IS ORDERED that defendant Paul Winfield's request for leave to proceed in forma pauperis on appeal from this court's order of September 23, 2008 is DENIED.

I certify that defendant's appeal is not taken in good faith. Defendant has the right to appeal this order certifying his appeal as not taken in good faith.

Entered this 21<sup>st</sup> day of October, 2008.

BY THE COURT:

Barbara B. Crabb

BARBARA B. CRABB

District Judge